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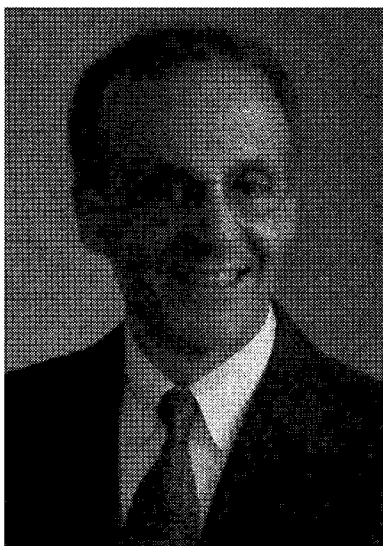
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Steven L. Willborn*

Picturing Harvey Perlman



In 1963, Harvey Perlman began his association with the University of Nebraska College of Law. That fall, he entered the College as a first-year student. Ever since, he has been an important part of this community—as editor-in-chief of the *Law Review*; as Assistant, Associate, and Full Professor of Law; as an influential alumnus during a nine-year visit, but never more than a visit in our minds, at the University of Virginia Law School; as Dean for fifteen years; and now as a senior faculty member. The pictures above understate the changes in Harvey during his time at Nebraska. The earlier picture (I'll let you guess which one it is) is from 1967 when he joined the faculty, not earlier when he began here as a student. The later picture is the official one to record his tenure as Dean, not a current one, or the one much later and still untaken when he leaves the institution.

The Law College is more difficult to capture in a picture, but it also looked quite different back in 1963 when Harvey first began to think

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about fleeing foxes and hairy hands. The College was in a different building then, and on a different campus. The faculty was less than half its current size.¹ There were no female or minority members of the faculty and very few in the student body itself. The *Law Review* still reserved a quarter of its pages to publish the proceedings of the Nebraska State Bar Association. The law knew little or nothing about law-and-economics, sexual harassment, the Internet, or even photocopying machines.

Today the Law College is much different and, on almost every count, better than it was when Harvey first arrived in 1963. It moved to a new facility in 1975, added a courtroom addition almost simultaneously with Harvey's return as Dean in 1983, and will soon add to the library. The faculty has more than doubled in size and now offers a curriculum of a breadth impossible, and virtually unimaginable, in 1963.² The faculty has also changed significantly in other ways. During Harvey's tenure as Dean, about half of all new faculty hired were women, the first African-American faculty were hired, and the first African-American administrator was hired. The student body also became increasingly, and refreshingly, diverse.³ Finally, the College, always of tremendous value in keeping the State and region abreast of national developments, increasingly began to reverse the flow of information during Harvey's tenure; as it grew in size and stature, the faculty began to influence national developments, as reporters on important restatement and law reform projects, as authors of nationally-used textbooks, and as noted scholars on many of the major issues of the day.

Law schools, of course, are complex organizations composed of strong-willed people, often headed in different directions. Assigning credit or blame for a law school's evolution is no easy task and, obviously, no individual can be wholly responsible. But some individuals set the course more than others and, for this Law College during this time period, Harvey Perlman has had more influence than any other single person. And the time between those pictures, largely under his guidance, has been one of growth and progress for the Law College.

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1. Harvey became the eleventh regular member of the faculty when he was hired in 1967.
 2. The breadth of today's curriculum would have been impossible back then simply because the faculty was too small. But many of today's courses would have been almost inconceivable back then even had the faculty been larger, such as Cyberlaw and International Environmental Law.
 3. The increase in the number of female students at the Law College occurred before Harvey became Dean, but he was very influential in increasing the number of students of color. The median number of students of color in each class increased *six-fold* between the time Harvey assumed the Deanship and when he stepped down, from about 2.5 students per class at the beginning to about 14.5 students at the end.

But consider an expanded time horizon. The later picture of Harvey hangs in a hallway in the Law College alongside pictures of the twelve prior Deans.⁴ Most people walking by probably know little about that group of men, but it is a very impressive group containing some of the most influential scholars of this century. Roscoe Pound (1903-07) is there, of course, but so is Warren A. Seavey (1920-26), who later served as reporter for the *Restatement of Agency* and was a long-time professor at Harvard; George P. Costigan, Jr. (1907-09), who wrote one of the first textbooks on legal ethics and spent most of his career at Northwestern; and John Strong (1977-82), one of this generation's leading evidence scholars.⁵ Harvey Perlman fits well within this group. He was co-reporter for the *Restatement of Unfair Competition* and is currently serving as a reporter for the *Restatement of Torts*, both very important projects in the development of the law. His textbook on intellectual property and unfair competition, currently in its fifth edition, has been an important influence on the thinking of law students and teachers in this important area for nearly thirty years.

The group of Deans also includes people who made substantial contributions to the wider University. William G. Hastings (1909-20) served as Acting Chancellor of the University when the regular chancellor was called to military service during World War I, and John W. Strong (1977-82) served as Vice Chancellor for Academic Affairs from 1982 to 1984. The Deans also made less formal contributions. In 1927, Dean Henry H. Foster (1926-43) stood bravely between near-rioting law and engineering students to protect University property. (The students wisely decided to destroy the property later, but that

4. The twelve prior Deans and their dates of tenure are:

William Henry Smith	1891-93
Manoah B. Reese	1893-01
Roscoe Pound	1903-07
George P. Costigan, Jr.	1907-09
William G. Hastings	1909-20
Warren A. Seavey	1920-26
Henry H. Foster	1926-43
Frederick K. Beutel	1946-50
Edmund O. Belsheim	1950-60
David Dow	1960-66
Henry M. Grether, Jr.	1966-77
John William Strong	1977-82

5. The influence of leading scholars like these persists for decades. Roscoe Pound has been cited in the law review literature more than 200 times since 1999. If the *RESTATEMENT OF AGENCY* is included as one of Warren Seavey's publications, he has been cited even more often. And consider a recent article in a leading law review which began, "I am a curmudgeon, and Frederick Beutel is one of my heroes." Peter A. Alces, *W(h)ither Warranty: The B(l)oom of Products Liability Theory in Cases of Deficient Software Design*, 87 CAL. L. REV. 269, 271 (1999). Dean Beutel stepped down as Dean in 1950; he was Professor Alces' hero because of an article he wrote in 1952.

does not diminish the bravery and loyalty of the Dean, does it?)⁶ Harvey Perlman has also served the wider University community. During 1995 and 1996, he served as Acting Senior Vice Chancellor for Academic Affairs and, among his many contributions in that position, he successfully mediated what seemed an intractable dispute between near-rioting engineers. (This time, however, the rioting was completely nonphysical and the law students remained quite out of range.) [As this article goes to press, Harvey has been appointed Interim Chancellor of the University of Nebraska-Lincoln.]

The Deans also include people who worked hard to ensure that the Law College had adequate physical facilities. Henry M. Grether, Jr. (1966-77) navigated the political and fund-raising waters skillfully to permit the move from downtown to the Law College's current location, and John Strong (1977-82) gathered the resources for and oversaw the beginning of the courtroom addition. Harvey Perlman also compares well on this dimension. He managed the major changes required to enter the computer age, including the construction of computer-ready classrooms and, before retiring from the Deanship, he raised substantial private funds for the upcoming library addition.

Finally, Harvey matches up well with the prior Deans in length of service. Only Henry H. Foster (1926-43) served as Dean longer than Harvey's fifteen years and, by the time he retires, Harvey is likely to have been with the University longer overall than any of the former Deans, except Henry Grether.⁷ Harvey, however, may fall slightly behind the curve in the drama of his departure from the Deanship. When Dean Foster resigned, for example, he also closed the Law College for three years and retained only one faculty member as caretaker, himself.⁸ But, then again, falling behind the curve on this dimension may not be all that bad.

Overall, then, Harvey Perlman holds his own among the very impressive group of men who have headed the University of Nebraska College of Law. He holds his own with Roscoe Pound, Warren A. Seavey, Henry H. Foster, David Dow, and John Strong. But Nebraska

6. As you would expect (given that you are reading a law review), the engineering students were the instigators. They had constructed a dirigible to advertise Engineer's Week and the sign on it had been changed from "Engineer's Week" to "Pharmacy Week." Using the inimitable logic of engineering students, they blamed law students for the change. See Keith Miles, *Law and Engineering Students Clashed in 1927*, NEBRASKA TRANSCRIPT, Fall 1986, at 10.

7. By my count, only Deans Foster and Grether are still ahead of Harvey. Dean Foster served the Law College for 26 years, from 1920 to 1946, and Dean Grether was with the College for 42 years, from 1948 until 1990. At latest count, Harvey has been Dean and faculty member for a total of 24 years.

8. Deans, of course, always act with justification. In this case, Dean Foster's justification was strong. The rest of the faculty was already away contributing to the War effort and only five returning students were expected that fall. See *News of the Law School*, 22 NEB. L. REV. 131 (1943).

and the Law College have extra reason to be proud of Harvey's picture hanging among that group. Only two of the Deans are native Nebraskans, the two who frame this century: Roscoe Pound and Harvey Perlman. And only one Dean is one of our own, a graduate of the Law College: Harvey Perlman.

Finally, for me personally, most of the Deans' pictures in the hallway of the Law College are only that, pictures. Even the earlier picture of Harvey above is something of a mystery to me; I do not know that young man.⁹ But Dean Harvey S. Perlman, his picture and the man, that is something else. He became Dean when I was a young untenured member of the faculty and remained Dean through an important swath of my career. He valued the right things, set opportunities in front of me, encouraged me when I needed encouragement, dissuaded me when I was heading in the wrong direction. Deans are measured by what they contribute to their institution and the profession, but they also nurture young careers, young lives. When I look back at Harvey's years as Dean, it is in that role that I will remember him most fondly. That is the picture of Harvey that I will keep in my mind.

9. I was practically a baby when that picture was taken.